

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

Donna Dougherty
Plaintiff

vs.

Green Woods Charter School, and
Harold Kurtz, Annette Solarski,
Elizabeth Bailey, Dana Lotkowski,
Emilie Nichols, Carol Spangenberg,
Steve Tilney and Glenn Vickers,
individually and in their official capacities
Defendants

CIVIL ACTION
NO. 05-CV-57

AMENDED COMPLAINT and
JURY DEMAND

COUNT I

INTRODUCTION

1. Pursuant to 42 U.S.C. §1983, Plaintiff, Donna Dougherty, brings this action against Green Woods Charter School and against the individual defendants in their official and individual capacities to redress the deprivation under color of state law of her first amendment right of freedom of expression about issues of public concern and to redress the deprivation of her property and liberty without procedural due process as guaranteed by the fourteenth amendment of the fourteenth amendment of the United States. seeks injunctive relief and damages against Green Woods Charter School for breach of her contracts, for violations of Pennsylvania Sunshine Act. Whistleblower law.

JURISDICTION

2.2. Pursuant to 28 U.S.C. 1333,2. Pursuant to 28 U.S.C. District Court has jurisdiction over this civil rights action brought pursuant to 42 U.S.C. §1983 to redress the deprivation under color of state law, custom or usage, of rights secured by the

Constitution of the United States.

3.3. Pursuant to 28 U.S.C. §1331, the United States District Court has jurisdiction over actions arising under the laws of the United States.

4.4. Pursuant to 28 U.S.C. §1367, the United States District Court has supplemental jurisdiction over the state claims.

5.5. Pursuant to 28 U.S.C. §1331, venue lies in the District of Pennsylvania where the events giving rise to the claim occurred.

PARTIES

6.6. Plaintiff, Donna Dougherty, is an adult individual residing at 6 Lothian Place, Philadelphia, Pennsylvania 19128.

7.7. Defendant, Green Woods Charter School. Defendant, Green Woods Charter School is a non-profit corporation established and operated under a charter from the School District of Philadelphia. The School District of Philadelphia Charter School Law, 24 P.S. §17-1701-A et seq. offices and classrooms are located at 8480 Hagys Mill Road, Philadelphia, Pennsylvania 19128.

8.8. Defendant, Harold Kurtz, is the acting Chief Executive Officer of the Green Woods Charter School. His office is located at 8480 Hagys Mill Road, Philadelphia, Pennsylvania 19128.

9.9. Defendant, Annette Solar斯基, is a secretary of the Green Woods Charter School. The secretary of the Green Woods Charter School is located at 8480 Hagys Mill Road, Philadelphia, Pennsylvania 19128.

10.10. Defendant, Elizabeth Bailey, is the president of the Board of Trustees of the Green Woods Charter School. She resides at 471 Wigard Avenue, Philadelphia, Pennsylvania 19128.

11.11. Defendant, Emilie Nicholl. Defendant, Emilie Nichols, ill. Trustees of the Green Woods Charter School. She resides at Trustee Jannette Street, Philadelphia, Pennsylvania.

12. Defendant, Dana Lotkowski, is a member of the Board of Trustees of the Green Woods Charter School who voted to terminate Plaintiff. Plaintiff. She resides at Plaintiff. She resides at 75 Plaintiff Pennsylvania 19128.

13.13. Defendant, Carol Spangenberg, 13. Defendant, Carol Spangenberg, Trustees of the Green Woods Charter School who voted to terminate Plaintiff. Plaintiff. She resides at 600 Palariet Road, Philadelphia, Pennsylvania 19128.

14.14. Defendant, Steve Tilney, is a member of th14. Defendant, S
DirectorsDirectors of the Green Woods Charter School who voted to terminate
Plaintiff. Plaintiff. His office Plaintiff. His office is lPlaintiff.
Services Building, Philadelphia, Pennsylvania 19102.

15.15. Defendant, Glenn Vickers, is15. Defendant, Glenn Vickers, is
DirectorsDirectors of the Green Woods Charter School who voted to terminate
Plaintiff. Plaintiff. He resides at 4Plaintiff. He resides at 469
Pennsylvania 19128.

16. Pursuant to The Charter School Law, 24 P.S. §17-1716-A, the Board of Trustees has authority to decide on the Board of Trustees has authority to decide on the operation of the school, subject to the school's charter.

17.17. Pursuant to the terms of a
October 12, 2003, Green Woods Charter
aa coordinator of instruction for the duration of the 2003-2004
school year, ending August 31, 2004 at an annual salary of
\$65,000.00. A copy of the written contract is attached hereto as

Exhibit A.

18.18. Defendants, Elizabeth Bailey, Dana Lotkowski, and Annette Solarski, insisted that the founders of the school would decide the length of the school year and the curriculum.

19.19. Plaintiff opposed several founders' wish to compress the school year by minutes so that school can be over in early June. Plaintiff raised concerns about compliance with statutory requirements for the length of the school year.

20.20. The Pennsylvania Charter School Law, 24 P.S. §17-171520. A(9) requires charter schools to provide at least 180 days or 900 hours of instruction per year.

21.21. The Charter School Law21. The Charter School Law, 24 P.S. charter schools to comply with 22 Pa. Code, Chapter 12.

22.22. Chapter 12 of 22 Pa. Code §12.32, requires that charter schools have a policy for maintenance, disclosure of student records consistent with the requirements of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g.

23.23. FERPA prohibits, inter alia, the release of educational records or personally identifiable information contained therein without the written consent of parents of the student whose records are released, unless the release is made to individuals who have a legitimate educational interest as specified in the statute. 20 U.S.C. §1232g(b) (1).

24. FERPA requires each educational institution to maintain a record of individuals other than those specified in 20 U.S.C. §1232g(1) (A) which have requested or obtained §1232g(1) (A) which h

education education records. The access education records. The access record interest interest of each such person in obtaining interest of each such person the files.

25.25. In August, 2003, Plaintiff made a presentation about common common problems of governance common problems of governance in charter the Charter did not allow founders to govern the school.

26. Beginning in the summer of 2003 through November, 2003, Plaintiff Plaintiff in good faith com Plaintiff in good faith com unrestricted unrestricted access to confidential student unrestricted access to in in the office area where they are privy to confidential student in in information information and the disclosure of confidential information special special education students and about the medical condition of students.

27.27. Plaintiff reported to the former principal, John DiLello, DiLello, the secretary's disclosure of pr DiLello, the secretary student records.

28.28. In January, 2004, the Board of Trustees was trained about confidentiality confidentiality responsibilities. Green Woods Charter S curtailed curtailed the access of individual members of the Board of Trustees to student records and to office areas.

29.29. In February 2004, Plaintiff criticized Defendant because because Bailey removed her child from school for a period of approximately approximately 30 days to protest preparation for standardized test required required by The Pennsylvania Charter School required by The Pennsylvania A(8).

30.30. On or about April 30. On or about April 2, 2004 Plaintiff concerns concerns about Founder concerns about Founder concerns about

confidentialityconfidentiality and interference with complianceconfidential

31.31. In ret31. In retaliati31. In retaliation against Plaintiff concernsconcerns aboutconcerns about school governance, breaches ofconcerns compliancecompliance with the charter school lawcompliance with the Lotkowski, Lotkowski, and SolarSKI, discarded Plaintiff's personal belongings and prevented her from having an office.

32.32. 32. In further retaliation against Plaintiff for32. In further ofof violations of the statuteof violations of the statute andof violations o 2004,2004, Defendant, Lotkowski, accused Plaintiff of inappropriate assistance of her son during a test.

33.33. In April,33. In April, 2004, the Board33. In April, 2004, the Charter School directed John DiLello, the former principal of the GreenGreen Woods Charter School,Green Woods Charter School, to investigate a thatthat Ms. Dougherty had assisted them in the process of taking standardized tests which had recently been administered.

34.34. After the conclusion of the investigation, on May 7, 2004, the Board offered Plaintiff a contract as a teacher for the 2004-20052004-2005 school year at a salary of \$55,000. The written offer is attached hereto as Exhibit B.

35.35. Plaintiff accepted the offer described35. Plaintiff accepted the memorandum to resolve the controversy.

36.36. Green Woods Charter School, did not implement any other pprovisionprovision of the agreement described on Exhibit B. Defendantpro BaileyBailey and Bailey and LotkowBailey and Lotkowski, objected to sch PlaintiffPlaintiff toPlaintiff to present concerns, comments and questions t as provided in the May 7, 2004 memorandum.

37. In July, 2004, Defendant, Nichols, accused Plaintiff of

assistingassisting Nichols' son duriassisting Nichols' son during a ass during the Spring of 2004.

38.38. Ms. Dougherty did not provide any inappropriate assistance to students who were taking standardized tests.

39. On July 23, 2004, Harold Kurtz, interim chief executive officerofficer of Green Woods Charter School,officer of Green Woods Charter informinginforming her that two fifth grade informing her that two fifth grade providingproviding inappropriate assistance during the administration of standardized tests in Spring, 2004.

40.40. On August 17, 2004, Harold Kurtz informed Plaintiff that sheshe is suspended without pay, effective immediately, pending action by the Board of Trustees.

41. At meeting of the Board of Trustees on August, 25, 2004, Defendants,Defendants, Lotkowski, SDefendants, Lotkowski, SpDefendants, L dismissdismiss Plaintiff from employment. dismiss Plaintiff from employment from the vote.

42.42. Board members42. Board members who supported the42. Board members forfor greater control of operations and access tofor greater control informationinformation in vinformation in viinformation in violation of s against Plaintiff and voted to dismiss Plaintiff from employment.

43.43. On September 29, 2004, Kurtz sent Plaintiff a letter confirmingconfirming thatconfirming that her employment withconfirming that was terminated effective September 24, 2004.

44. On September 24, 2004, Plaintiff filed a writ of summons in the Court of Common Pleas of Philadelphia County against Green Woods Charter School.

45. On December 8, 2004, Plaintiff filed a complaint in the

Court of Common Pleas of Philadelphia against Green Woods Charter School, School, Kurtz, Solarski, Bailey, Lotkowski, Nichols and Spangenberg.

46.46. On or about December 10, 2004, a complaint was filed with the Pennsylvania Department of Education. Plaintiff's complaint alleged that the Pennsylvania Department of Education failed to follow professional testing protocols.

47.47. Plaintiff's speech on matters of public concern. Plaintiff's substantial motivating factor for accusations of inappropriate conduct against Plaintiff and the termination of Plaintiff from employment.

WHEREFORE, Plaintiff prays that the Court award Plaintiff back pay, front pay, compensatory damages, attorney's fees, and costs as this Court deems appropriate. Plaintiff prays that the Court award her punitive damages against Defendants, Kurtz, Solarski, Bailey, Lotkowski, Nichols and Spangenberg, in their individual capacity.

COUNT II

48.48. Plaintiff incorporates the averments of Count I as if specifically stated herein.

49.49. Defendants terminated Plaintiff for cause. Defendants terminated Plaintiff in a public meeting wherein Defendant, K, terminated Plaintiff. Defendants did not terminate Plaintiff. Defendants did not afford Plaintiff a post-termination hearing.

50.50. Defendants did not afford Plaintiff a post-termination hearing.

51.51. 51. Defendants deprived Plaintiff of her property51. Defendants her her job and in her liberty interest without affording her due process of law.

W~~H~~HEREFORE, WHEREFORE, Plaintiff prays this Court to enter an orw directing Defendants to reinstate Plaintiff as coordindirecting instructioninstruction and to award Plaintiff back pay, front pay compensatorycompensatory damages, attorney's fees, compensatory damages, att~~as~~ as this Court deems appropriate. Plaintiff prays this Court award her punitive damages against Defendants, Kurtz, Solar~~s~~ki, Bailey, Lotkowski, Lotkowski, Nichols and Spangenberg, Tilney and Vickers, in Lotko individual capacity.

COUNT III

52.52. Plaintiff inco52. Plaintiff incorpor52. Plaintiff incorpo through 51 as if specifically stated herein.

53.53. Green Woods C53. Green Woods Char53. Green Woods Charte contract with Plaintiff for the 2004-2005 school year.

54.54. Defendant, Green Woods Charter School, breached the agreementagreement with Plaintiff to resolve the prior controversy, as outlined in the memorandum of May 7, 2004, attached as Exhibit B.

WHEREFORE, WHEREFORE, Plaintiff prays this Court to order DefeWHERE~~W~~ Green Green Woods Charter School, to reinstate her to her position as coordinatorcoordinator of instruction with back paycoordinator of instruction her compensatory damages.

COUNT IV - Sunshine Act

55.55. Plaintiff incorporat55. Plaintiff incorporates t55. Plaintiff through 54 as if specifically stated herein.

56.56. The Charter School Law, 24 P.S. §17-1716-A, requires the

BoardBoard of TrusteesBoard of Trustees of the Green Woods CharterBoard of T
the Sunshine Act.

57.57. On August 1157. On August 11, 257. On August 11, 2004, terminate Plaintiff's employment.

58. Defendants did not give public notice of the August 11, 2004 meeting as required by 65 Pa. C.S.A. §709(a).

59.59. The Board held a second meeting on August 25, 2004, to consider Plaintiff's termination.

60.60. Plaintiff submitted written re60. Plaintiff submitted written Trustees'Trustees' discussions and vote onTrustees' discussions and vote on in an open meeting.

61.61. In violation of 65 Pa. C.S.A. §708(a)(1), the Board deliberateddeliberated adeliberated abdeliberated about Plaintiff's termin session on August 25, 2004.

62.62. In violation of 65 Pa. C.S.A. §710.1(a), The Board limitedlimited comments by the public at the August 25 board meeting. WhenWhen attendeesWhen attendees demanded an explanation ofWhen attendees de the Board retreated into another closed executive session.

WHEREFORE, WHEREFORE, pursuant to 65 Pa.C.S.A. §713, Plaintiff prays this CourtCourt to declare the vote to suspend orCourt to declare the vot August 11 and at the August 25 board meetings void, to enjoin the Board'sBoard's decision to suspendBoard's decision to suspend PlainBoard's thethe Board's decision to terminate Plaintiff; pursuant to 65 Pa.C.S.A.Pa.C.S.A. §714.1, Plaintiff prays this Court to award her attorney'sattorney's fees and costs of litigation and such other relief as this Court deems appropriate.

COUNT V - Whistleblower Act violations

63.63. Plaintiff i63. Plaintiff inco63. Plaintiff incorporate through 59 by reference as if specifically stated herein.

64.64. In violation of the Pennsylvania 64. In violation of the P.S.P.S. §1423, Defendants retaliated against Plaintiff in the coconditionsconditions of employment and discharged her because of her go faithfaith reports to the Principal and Board of violations of law pertainingpertaining to maintenance and disclosure of contents of student recordsrecords and because ofrecords and because of Plaintiff's insistence upon provisions of the Charter School Law.

WHEREFORE, WHEREFORE, Plaintiff pWHEREFORE, Plaintiff praysWHEREFORE directingdirecting Green Woodsdirecting Green Woods Charter School to reinstate employment as coordinator of instruction; and to award her back pay, pay, front pay and all benepay, front pay and all benefits, pay, front andand fees incurred for litigation and such other relief as this Court deems appropriate.

Doris J. Dabrowski DJD2187
Attorney for Plaintiff
1500 Walnut St, Suite 900
Philadelphia, Pa. 19102
215-790-1115

JURY DEMAND

Plaintiff demands a trial by jury.

Doris J. Dabrowski

CERTIFICATE OF SERVICE

Doris J. Dabrowski certifies that on February 25, 2005, Doris J. Dabrowski served a copy of the first amended complaint upon counsel for defendants by first class mail, postage prepaid, addressed to:

Vicky P. Deshong
Edward Mintzer, Jr.
Rawle & Henderson
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